

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

**STEPHEN TORRES, as Personal Representative
of the Estate of CHRISTOPHER TORRES, deceased,**

Plaintiff,

v.

CIV 12-1048 RB/KBM

**CITY OF ALBUQUERQUE, ex rel.
ALBUQUERQUE POLICE DEPARTMENT;
CHRISTOPHER BROWN; and
RICHARD HILGER,**

Defendants.

ORDER REGARDING SCENE WALK-THROUGH

THIS MATTER comes before the Court on a faxed letter from Defendant's counsel dated October 25, 2013, requesting a telephonic status conference. A previous telephonic conference was held on October 17, 2013, in which the Court ruled that Defendants and their expert may conduct a walk-through of the scene on November 1, 2013, with Plaintiff's counsel present. *Doc. 64.*

On October 24, 2013, Plaintiff filed a Notice of Non-Appearance of their expert, Ron Scott, for his deposition (scheduled to take place in Phoenix, on October 25, 2013) on the grounds they plan to have him in Albuquerque on November 1, 2013 to perform a walk-through at the same time as the Defendants' expert. One of Defendants' counsel, Ms. Maggiore, objects to Mr. Scott performing a walk-through at the same time as Defendants and objects to conducting Mr. Scott's deposition on November 1, 2013. Plaintiff advises, however, that on October 23, 2013, Douglas Gardner, also

Defendants' counsel, agreed to vacate Mr. Scott's deposition and reschedule it for the afternoon of November 1, 2013. These matters were not discussed at the October 17, 2013, hearing.

Having also reviewed Plaintiff's faxed letter response of October 25, 2013, the Court finds that no telephonic conference is necessary for its decision. Plaintiff's expert may conduct a walk-through of Plaintiff's property at the same time as Defendants' expert on November 1, 2013. However, Plaintiff's expert is not to interfere in any way with Defendants' walk-through or attempt to listen in on the conversation between Defendants' expert and the officers, if Defendants' counsel so prefers. Additionally, it appears counsel for Defendants agreed to reschedule the deposition and Mr. Scott's non-appearance was properly noticed.

IT IS SO ORDERED.


UNITED STATES CHIEF MAGISTRATE JUDGE